

**Introduced by Senator Morrell
(Coauthor: Senator Fuller)**

February 27, 2015

An act to amend Section 399.15 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 728, as introduced, Morrell. California Renewables Portfolio Standard Program.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. The Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program (RPS program). The RPS program requires the commission to establish a renewables portfolio standard requiring all retail sellers, as defined, to procure a minimum quantity of electricity products from eligible renewable energy resources, as defined, at specified percentages of the total kilowatthours sold to their retail end-customers during specified compliance periods. Existing law authorizes the commission to require a retail seller to procure eligible renewable energy resources in excess of the specified quantities.

This bill would require that the commission evaluate the economic impacts upon low- and middle-income individuals and families before exercise of its authority to increase the procurement of eligible renewable energy resources in excess of the specified quantities. The bill would require the commission, in performing its evaluation, to

conduct duly noticed public workshops throughout the state to allow for public comment and consideration of the economic findings.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 399.15 of the Public Utilities Code is
2 amended to read:

3 399.15. (a) In order to fulfill unmet long-term resource needs,
4 the commission shall establish a renewables portfolio standard
5 requiring all retail sellers to procure a minimum quantity of
6 electricity products from eligible renewable energy resources as
7 a specified percentage of total kilowatthours sold to their retail
8 end-use customers each compliance period to achieve the targets
9 established under this article. For any retail seller procuring at least
10 14 percent of retail sales from eligible renewable energy resources
11 in 2010, the deficits associated with any previous renewables
12 portfolio standard shall not be added to any procurement
13 requirement pursuant to this article.

14 (b) The commission shall implement renewables portfolio
15 standard procurement requirements only as follows:

16 (1) Each retail seller shall procure a minimum quantity of
17 eligible renewable energy resources for each of the following
18 compliance periods:

19 (A) January 1, 2011, to December 31, 2013, inclusive.

20 (B) January 1, 2014, to December 31, 2016, inclusive.

21 (C) January 1, 2017, to December 31, 2020, inclusive.

22 (2) (A) No later than January 1, 2012, the commission shall
23 establish the quantity of electricity products from eligible
24 renewable energy resources to be procured by the retail seller for
25 each compliance period. These quantities shall be established in
26 the same manner for all retail sellers and result in the same
27 percentages used to establish compliance period quantities for all
28 retail sellers.

29 (B) In establishing quantities for the compliance period from
30 January 1, 2011, to December 31, 2013, inclusive, the commission
31 shall require procurement for each retail seller equal to an average
32 of 20 percent of retail sales. For the following compliance periods,
33 the quantities shall reflect reasonable progress in each of the

1 intervening years sufficient to ensure that the procurement of
2 electricity products from eligible renewable energy resources
3 achieves 25 percent of retail sales by December 31, 2016, and 33
4 percent of retail sales by December 31, 2020. The commission
5 shall require retail sellers to procure not less than 33 percent of
6 retail sales of electricity products from eligible renewable energy
7 resources in all subsequent years.

8 (C) Retail sellers shall be obligated to procure no less than the
9 quantities associated with all intervening years by the end of each
10 compliance period. Retail sellers shall not be required to
11 demonstrate a specific quantity of procurement for any individual
12 intervening year.

13 (3) The commission may require the procurement of eligible
14 renewable energy resources in excess of the quantities specified
15 in paragraph (2). *The commission shall evaluate the economic*
16 *impacts upon low- and middle-income individuals and families*
17 *before exercise of its authority pursuant to this paragraph to*
18 *increase the procurement of eligible renewable energy resources.*
19 *In performing its evaluation, the commission shall conduct duly*
20 *noticed public workshops throughout the state to allow for public*
21 *comment and consideration of the economic findings. These*
22 *workshops shall be completed not less than 60 days prior to*
23 *consideration by the commission of a rule that would require*
24 *procurement of eligible renewable energy resources in excess of*
25 *the quantities specified in paragraph (2).*

26 (4) Only for purposes of establishing the renewables portfolio
27 standard procurement requirements of paragraph (1) and
28 determining the quantities pursuant to paragraph (2), the
29 commission shall include all electricity sold to retail customers by
30 the Department of Water Resources pursuant to Division 27
31 (commencing with Section 80000) of the Water Code in the
32 calculation of retail sales by an electrical corporation.

33 (5) The commission shall waive enforcement of this section if
34 it finds that the retail seller has demonstrated any of the following
35 conditions are beyond the control of the retail seller and will
36 prevent compliance:

37 (A) There is inadequate transmission capacity to allow for
38 sufficient electricity to be delivered from proposed eligible
39 renewable energy resource projects using the current operational
40 protocols of the Independent System Operator. In making its

1 findings relative to the existence of this condition with respect to
2 a retail seller that owns transmission lines, the commission shall
3 consider both of the following:

4 (i) Whether the retail seller has undertaken, in a timely fashion,
5 reasonable measures under its control and consistent with its
6 obligations under local, state, and federal laws and regulations, to
7 develop and construct new transmission lines or upgrades to
8 existing lines intended to transmit electricity generated by eligible
9 renewable energy resources. In determining the reasonableness of
10 a retail seller's actions, the commission shall consider the retail
11 seller's expectations for full-cost recovery for these transmission
12 lines and upgrades.

13 (ii) Whether the retail seller has taken all reasonable operational
14 measures to maximize cost-effective deliveries of electricity from
15 eligible renewable energy resources in advance of transmission
16 availability.

17 (B) Permitting, interconnection, or other circumstances that
18 delay procured eligible renewable energy resource projects, or
19 there is an insufficient supply of eligible renewable energy
20 resources available to the retail seller. In making a finding that this
21 condition prevents timely compliance, the commission shall
22 consider whether the retail seller has done all of the following:

23 (i) Prudently managed portfolio risks, including relying on a
24 sufficient number of viable projects.

25 (ii) Sought to develop one of the following: its own eligible
26 renewable energy resources, transmission to interconnect to eligible
27 renewable energy resources, or energy storage used to integrate
28 eligible renewable energy resources. This clause shall not require
29 an electrical corporation to pursue development of eligible
30 renewable energy resources pursuant to Section 399.14.

31 (iii) Procured an appropriate minimum margin of procurement
32 above the minimum procurement level necessary to comply with
33 the renewables portfolio standard to compensate for foreseeable
34 delays or insufficient supply.

35 (iv) Taken reasonable measures, under the control of the retail
36 seller, to procure cost-effective distributed generation and allowable
37 unbundled renewable energy credits.

38 (C) Unanticipated curtailment of eligible renewable energy
39 resources necessary to address the needs of a balancing authority.

1 (6) If the commission waives the compliance requirements of
2 this section, the commission shall establish additional reporting
3 requirements on the retail seller to demonstrate that all reasonable
4 actions under the control of the retail seller are taken in each of
5 the intervening years sufficient to satisfy future procurement
6 requirements.

7 (7) The commission shall not waive enforcement pursuant to
8 this section, unless the retail seller demonstrates that it has taken
9 all reasonable actions under its control, as set forth in paragraph
10 (5), to achieve full compliance.

11 (8) If a retail seller fails to procure sufficient eligible renewable
12 energy resources to comply with a procurement requirement
13 pursuant to paragraphs (1) and (2) and fails to obtain an order from
14 the commission waiving enforcement pursuant to paragraph (5),
15 the commission shall exercise its authority pursuant to Section
16 2113.

17 (9) Deficits associated with the compliance period shall not be
18 added to a future compliance period.

19 (c) The commission shall establish a limitation for each electrical
20 corporation on the procurement expenditures for all eligible
21 renewable energy resources used to comply with the renewables
22 portfolio standard. In establishing this limitation, the commission
23 shall rely on the following:

24 (1) The most recent renewable energy procurement plan.

25 (2) Procurement expenditures that approximate the expected
26 cost of building, owning, and operating eligible renewable energy
27 resources.

28 (3) The potential that some planned resource additions may be
29 delayed or canceled.

30 (d) In developing the limitation pursuant to subdivision (c), the
31 commission shall ensure all of the following:

32 (1) The limitation is set at a level that prevents disproportionate
33 rate impacts.

34 (2) The costs of all procurement credited toward achieving the
35 renewables portfolio standard are counted towards the limitation.

36 (3) Procurement expenditures do not include any indirect
37 expenses, including imbalance energy charges, sale of excess
38 energy, decreased generation from existing resources, transmission
39 upgrades, or the costs associated with relicensing any utility-owned
40 hydroelectric facilities.

(e) (1) No later than January 1, 2016, the commission shall prepare a report to the Legislature assessing whether each electrical corporation can achieve a 33-percent renewables portfolio standard by December 31, 2020, and maintain that level thereafter, within the adopted cost limitations. If the commission determines that it is necessary to change the limitation for procurement costs incurred by any electrical corporation after that date, it may propose a revised cap consistent with the criteria in subdivisions (c) and (d). The proposed modifications shall take effect no earlier than January 1, 2017.

(2) Notwithstanding Section 10231.5 of the Government Code, the requirement for submitting a report imposed under paragraph (1) is inoperative on January 1, 2021.

(3) A report to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(f) If the cost limitation for an electrical corporation is insufficient to support the projected costs of meeting the renewables portfolio standard procurement requirements, the electrical corporation may refrain from entering into new contracts or constructing facilities beyond the quantity that can be procured within the limitation, unless eligible renewable energy resources can be procured without exceeding a de minimis increase in rates, consistent with the long-term procurement plan established for the electrical corporation pursuant to Section 454.5.

(g) (1) The commission shall monitor the status of the cost limitation for each electrical corporation in order to ensure compliance with this article.

(2) If the commission determines that an electrical corporation may exceed its cost limitation prior to achieving the renewables portfolio standard procurement requirements, the commission shall do both of the following within 60 days of making that determination:

(A) Investigate and identify the reasons why the electrical corporation may exceed its annual cost limitation.

(B) Notify the appropriate policy and fiscal committees of the Legislature that the electrical corporation may exceed its cost limitation, and include the reasons why the electrical corporation may exceed its cost limitation.

1 (h) The establishment of a renewables portfolio standard shall
2 not constitute implementation by the commission of the federal
3 Public Utility Regulatory Policies Act of 1978 (Public Law
4 95-617).

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